IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7550 OF 2005

Vikram Janakraj Ahuja .. Applicant

Versus

State of Maharashtra & Ors. .. Respondents

Mr.S.R.Chitnis with Mr.D.S.Mishra for applicant

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 20th December 2005.

P.C.

. Heard Mr.Chitnis, learned Senior Counsel for applicant and Mr.Pednekar, A.P.P. for respondents. Applicant has approached this Court

upon the anticipatory bail application No.1409 of 2005 being dismissed by the Sessions Judge vide order dated 18th November 2005.

2. On earlier occasion, applicant had approached this Court and it is pointed out that no F.I.R. has been registered in the light of the report regarding non cognisable offence. Complainant Pooja Ahuja, is the wife of applicant herein. This appears to be a usual matrimonial dispute. Properties and articles belonging to complainant, upon her leaving the house have not been handed over and this appears to be the substantial part of grievances made by her. This is also fortified by her statement which was recorded on 8th September 2005 by the trial Court. Anticipatory bail application of the applicant was rejected on 15th September 2005 by the trial court. Applicant approached this Court and that is how, the above mentioned statement came to be recorded. Thereafter, F.I.R. came to

be registered at Bhandup police station bearing C.R.No.269 of 2005 alleging offences under section 498A, 406, 323, 504, 506(2) read with 34 I.P.C. At that stage, applicant herein approached this Court but was directed to approach the sessions court. After approaching sessions Court, the above order rejecting his application has been passed.

3. My attention is invited to not only the statement recorded earlier but to a letter dated 3rd November 2005 addressed by complainant's advocate to the applicant herein.

4. In paras 6 and 7 of this letter, it is pointed out that expenses for the new house and new articles were shared by the complainant and instance of 7th September 2005 is mentioned. It is also recorded that complainant was tortured allegedly for dowry.

5. Applicant has been availing of interim bail, through out pendency of the application before trial court as well as this Court. He was reporting to the police station. He is permanent resident of Mumbai and working with Tata Indicom. I had imposed condition upon him to attend police station. Learned A.P.P. points out that applicant has attended police station as per directions. This application was adjourned from time to time because complainant is abroad. She has still not returned. It is pointed out before the sessions court as well as before me that articles worth Rs.2 lakhs have been returned to her. However, sessions court has further recorded that still articles worth Rs.2 lakhs i.e. gold necklace, two ear-rings, four gold bangles are yet to be recovered. These are stree dhan.

6. In my view, prima facie, the version of complainant recorded on 8th September 2005 and

the statements in the letter dated 3rd November 2005 of complainant's advocate as well as her statement recorded on 26th October 2005, essentially demonstrates that grievance is about articles which are stree dhan, according to complainant. Other allegations have been made after this court recorded statement of prosecution that on 8th September 2005, only a N.C. has been lodged. Even if these further statements are perused, nature of dispute prima facie appears to be the same. Further, applicant being a permanent resident of Mumbai and is presently serving and willing to abide by all conditions, present application deserves to be granted. Hence following order:-

i) In the event of the arrest of the applicant in connection with C.R.No.269 of 2005 registered with Bhandup Police Station, the applicant shall be enlarged on bail in the sum of Rs.50,000/- with

one surety in the like amont.

ii) Applicant shall attend Bhandup Police station on as and when summoned.

iii) Bail is granted subject to the condition that applicant shall not directly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. Applicant shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter he will be free to apply to the appropriate court for appropriate relief.

vi) Application disposed of

vii) Parties to act on an authenticated copy of this order.

7. It is made clear that all observations made herein are for deciding anticipatory bail application and shall not influence the trial court while trying the case and it would be open for the court to take cognisance of all allegations made by the complainant. Equally, such observations would not bind the court siezed of Matrimonial proceedings.

(S.C.DHARMADHIKARI, J)